IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.1470 OF 2005

M/s.Uday Industries & Anr. ..Petitioners
Vs.
Shri.Anil Prabhakarpant
Koregaonkar and Ors. ..Respondents

....

Mr.V.G.Majumdar for Petitioners
Mr.D.S.Sawant for Respondent no.1

....

CORAM : B.H.MARLAPALLE,J.
DATE : MARCH 23,2005

P.C.:

1. Heard Mr.Majumdar, the learned counsel for the petitioners and Mr.Sawant, the learned counsel for the respondent no.1.

2. R.C.S.No. 345 of 1977 was decreed on 28.3.1984. The Judgment Debtors had filed writ petitions No.3208 and 3209 of 1989 against the Decree Holders and original defendant nos.1 and 2. These petitions were decided by this Court and in the said petitions, the judgment and order passed in R.C.A.No. 153 of 1984 was the subject matter of the challenge. When the decree passed in R.C.S.No. 345 of 1977 had reached finality and was not being implemented, R.D. No. 89 of 2004 was filed by the Decree Holders and in the said darkhast proceedings applications at Exhs.1,23,26,28 and 29 came to be filed by the present petitioners who are Judgment Debtors Nos.1-A

to C. By the common order dated 9.12.2004 passed by the learned Jt.Civil Judge J.D. at Kolhapur, the applications at Exhs.23, 26, 28 and 29 came to be rejected and the Court directed warrant to be issued under Order XXI Rule 35 of CPC against the Judgment Debtors. This order has been challenged in R.C.A.No. 5 of 2005 by the present petitioners and in the said appeal an application at Exh.10 came to be filed for stay to the execution proceedings. The learned IIIrd Ad-hoc Addl. District Judge at Kolhapur was pleased to dismiss the said application by his order dated 12.1.2005 and hence, this petition.

3. The lower appellate Court has considered the orders passed by this Court in the writ petitions and the fact that the decree had received finality, the petitioners were the Judgment Debtors and they were not Obstructionists and therefore, the decree was binding on them. By filing the subsequent applications they were trying to delay the execution proceedings. This reasoning set out by the lower appellate Court, cannot be termed as perverse or patently erroneously so as to call for any interference in this petition under Article 227 of the Constitution.

4. The petition is therefore, rejected summarily.

[B.H.MARLAPALLE,J.]